STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission On Its Own Motion	)))	
v.	)	Docket No. 01-0469
North Shore Gas Company	))))	
Proposal to implement Riders SVT and AGG, and revise Rider 2, Terms and Conditions, and Table of Contents	)))	

BRIEF ON EXCEPTIONS OF NORTH SHORE GAS COMPANY

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Dated at Chicago this
28th day of January, 2002

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Brief on Exceptions of North Shore Gas Company

Pursuant to Section 200.830 of the Illinois Commerce Commission's ("Commission") Rules of Practice and the schedule established by the Administrative Law Judges, North Shore Gas Company ("North Shore" or "Respondent") hereby files its Brief on Exceptions to the Administrative Law Judges' Proposed Order ("ALJPO") in the above-captioned proceeding. Appendix A of this Brief sets forth Respondent's proposed modifications to the ALJPO.

I. INTRODUCTION

The ALJPO, on many issues, recommends a just and reasonable resolution of the questions posed by North Shore's proposal to implement a transportation program for small volume Service Classification No. 2 ("Rate 2") general service and Service Classification No. 1 residential customers ("Rate 1"). The proposed program will be called the Choices For You℠ Program (the "Program"). For example, the ALJPO's recommendations concerning the proposed Operational Integrity provision, the appropriate method for calculating the Required Daily Delivery Quantity ("RDDQ") and the basic terms and conditions under which SVT Suppliers will sign up customers, deliver gas to Respondent and manage daily and monthly imbalances as well as the administrative charges associated with Respondent's services are fully supported in the record and should be approved.

On other issues, Respondent disagrees with the ALJPO's findings and conclusions, but it has opted not to pursue those issues in this Brief. For example, Respondent strongly believes that allowing SVT Suppliers to usurp Respondent's billing function for its services is contrary to the record and unsupported by Commission billing policies. Similarly, the proposed storage inventory carrying cost credit is flawed as a matter of law, *i.e.,* it is impermissible single issue ratemaking. Finally, Respondent disagrees that the imbalance carry forward proposal, level of enrollment limits and imbalance charges are supported by the record.

Nonetheless, in order to focus on a limited number of key issues, this Brief will address only: (a) the daily delivery tolerance level, (b) the lack of customer choice with respect to billing, (c) locking in the payment assurance at $2.00 per therm of Maximum Daily Quantity, (d) the customer count data and cost of gas to be used in developing the storage inventory carrying cost credit, and (e) the Standards of Conduct.

II. SUMMARY

Notwithstanding its concerns about several recommendations in the ALJPO, Respondent will limit its issues in this Brief on Exceptions. It will do so both to focus only on those issues that cause it the greatest concern and because, with implementation only three months away, Respondent is necessarily devoting its resources to ensuring that the implementation of the Program is successful for Respondent, its customers and the SVT Suppliers. Accordingly, Respondent argues that the ALJPO be modified as follows:

- The daily delivery tolerance should be based on the transportation resources that support Respondent's ability to offer a tolerance and such daily delivery tolerance should be 3% of the RDDQ but in no event more than 5% of the RDDQ.
- A Rider SVT customer should be able to choose to be billed directly by Respondent for the services it provides. Aside from the inherent fairness of allowing a customer choice program to include billing choices, the much-publicized collapse of Enron Corporation and the attendant billing problems highlight how critical this attribute of the Program is to Respondent and its customers.
- Locking in the payment assurance at $2.00 per therm of Maximum Daily Quantity or any other figure inappropriately prevents the level of assurance from tracking the market conditions that drive Respondent's

exposure to SVT Suppliers. Again, the Enron Corporation debacle highlights the importance of allowing performance measures to be an accurate and flexible means of ensuring that the services provided by Respondent are paid for by the SVT Supplier.

- While Respondent strongly disputes the legal support for the storage inventory carrying cost credit and does not agree that the credit should be applied in the form of an offset to the per account component of the Aggregation Charge, Respondent has elected not to pursue these issues in the Brief. However, if the Commission decides to impose a storage inventory carrying cost credit using the methodology set forth in the ALJPO, it should derive an adjustment that uses more representative customer count data and consistently uses base rate data for the key components of the calculation, *viz.*, the allowed rate of return from Respondent's most recent rate case (9.75%, Docket 95-0031) should be paired with the cost of gas embedded in base rates ($0.114 per therm). Alternatively, if the Commission declines to use consistent data, it should at least use a more current value for the cost of gas, *viz.*, $0.24 per therm; the $0.29 per therm figure in the record is dated and more current data are available of which the Commission can take administrative notice.
- The Standards of Conduct improperly impose a quasi-regulatory function on Respondent and should be eliminated. At most, such Standards should be in place only until the Commission acquires

jurisdiction over SVT Suppliers, as is likely to happen given the overwhelming support in the General Assembly for legislation that would accomplish just that.

III. ARGUMENT

A. The Daily Delivery Tolerance Should Be Based on Pipeline Transportation Resources that Support this Service Feature.

Respondent proposed a daily delivery tolerance, measured as a percentage of the RDDQ, of 3%. Respondent offered ample support for this proposal. Briefly, the basis for the 3% was that only one of the two pipelines interconnecting with Respondent's service territory offers daily delivery tolerances to Respondent. That pipeline, Natural Gas Pipeline Company of America ("Natural"), provides only a 5% daily delivery tolerance. Respondent demonstrated that it would not be reasonable to offer to Program participants the full amount of Natural's tolerance as SVT Suppliers have no obligation to deliver their gas using Natural. Thus, only a portion of the tolerance would be available to support the tolerance for SVT Suppliers. Resp. Ex. B, pp. 4-5; Resp. Ex. D, pp. 3-5; Resp. Ex. G, pp. 4-8. *Also see* Resp. In. Br., pp. 30-34; Resp. Reply Br., pp. 22-25.

The ALJPO rejected this proposal and instead recommended imposition of a 10% daily delivery tolerance. The basis for this recommendation is the ALJPO's contentions that: (a) there are concerns about the amount of flexibility available to SVT Suppliers, (b) resources other than Natural's transportation services are available to support the tolerance, and (c) a 10% tolerance was recently adopted for Northern Illinois Gas Company d/b/a Nicor Gas ("Nicor

Gas"). ALJPO, pp. 38-39. These reasons are flawed and should be rejected. At most, if the Commission concludes that there should be additional flexibility offered to SVT Suppliers, that flexibility should not exceed the 5% daily tolerance available to Respondent from Natural. While this would overstate the appropriate tolerance, given that SVT Suppliers need not deliver gas using Natural, at least the 5% is properly tied to an asset that supports the tolerance being offered under the Program.

First, the flexibility under the Program should be based on the flexibility available to Respondent and what SVT Suppliers are paying for through the Program charges. While SVT Suppliers may well desire greater flexibility, Respondent should not be compelled to offer what it does not have, nor should SVT Suppliers receive the benefits of assets beyond their cost contribution for those assets. Providing rights in excess of the SVT Suppliers' cost contributions results in those rights being subsidized by retail sales customers who choose not to participate in the Program. Resp. Ex. D, pp. 4-5; Resp. Ex. G, pp. 5-7.

Second, the ALJPO correctly recognized that Staff erred by concluding that Natural's tolerances are irrelevant to the determination of the proper daily delivery tolerance. ALJPO, p. 38. The ALJPO then inexplicably adopted Staff's rationale for a 10% daily delivery tolerance. The ALJPO and Staff are correct that SVT Suppliers will, through the Aggregation Balancing Gas Charge ("ABGC"), pay for assets related to storage and balancing. The ALJPO and Staff are, however, incorrect in then concluding that these assets can be used to support services beyond storage and balancing. The ABGC is designed to recover the costs associated with providing additional storage days to SVT Suppliers and associated balancing. Specifically excluded from the determination of the ABGC are costs not associated with storage and balancing. Resp. Ex. A, pp. 21-22; s*ee also* ALJPO, p. 66. SVT Suppliers receive the full value of the service supported by the ABGC in the form of several days of storage capacity and extensive daily and intra-day balancing that Respondent, as the system operator for all its customers, provides. Taking these very same assets to support additional delivery tolerance would be a redundant use of the assets, to the detriment of Respondent's retail sales customers. Resp. Ex. A, p. 16; Resp. Ex. D, pp. 4-5; Resp. Ex. G, pp. 5-6.

Third, even Staff agreed that the 10% tolerance that Nicor Gas proposed, and the Commission adopted, was based on Nicor Gas' operational and reliability concerns. R. 243. The fact that the Commission approved Nicor Gas' proposal in a case in which that proposal was unopposed has no bearing on the operational and reliability considerations that should be the basis for adopting a tolerance in this proceeding. Nicor Gas is not in the same operational circumstances as Respondent. It has substantial on-system storage capacity and Respondent has none. It is directly interconnected with several more pipelines than Respondent. It has far more pipeline interconnections than Respondent. R. 173-174; *also see* Resp. Ex. D, pp. 2-3; Resp. Ex. G, pp. 3-4. This evidence is uncontroverted. By contrast, Staff's support for the 10% tolerance is based on its claims that there are non-transportation assets that support such a tolerance. R. 260-261. Staff provides no basis for its derivation of 10% from the assets that it claims are available to Respondent to support the tolerance. There is no quantification of how the assets generally referenced by Staff support a different tolerance, nor is there any evidence of how those assets can be used for a service other than the storage and balancing for which they are designed and that the SVT Suppliers will receive from Respondent. In fact, Staff's number is simply based on what the Commission approved for a different utility, based on that utility's own assessment of the amount of tolerance available to it. Nicor Gas' proposal provides no relevant precedent on this issue.

Accordingly, the daily delivery tolerance should be 3%. However, if the Commission decides to require a higher tolerance, there is no record support for a daily delivery tolerance in excess of the 5% available to Respondent from Natural.

B. A Rider SVT Customer Should Be Able to Choose to Be Billed Directly by Respondent for the Services It Provides.

Respondent showed in its testimony and briefs why it would be inappropriate for the Commission to mandate supplier single billing, which has the untoward effect of preventing a service provider -- North Shore -- from issuing a bill for the services that it provides to customers while, paradoxically, allowing another service provider -- the SVT Supplier -- to bill not only for its own services but for Respondent's services. Resp. In. Br., pp. 7-18. While Respondent continues to believe that this result is contrary to the record evidence and is at odds with the Commission's billing policies, Respondent has elected not to pursue this issue. However, it is Respondent's position that a customer should have the right to request to receive its bill for utility charges directly from the utility.

During the proceeding, Respondent proposed a supplier single billing tariff, Rider SBO, in the event that the Commission chose to mandate supplier single billing. Resp. In. Br., pp. 18-21. The ALJPO recommended adoption of this tariff, with some modifications. ALJPO, pp. 24-27. Generally, Respondent supports the ALJPO's analysis of issues raised in connection with Rider SBO, particularly the finding that supplier single billing in the form of account agency billing would be allowed only until the implementation of Rider SBO. However, Respondent excepts, in part, to the ALJPO's proposed rejection of Respondent's proposal that customers affirmatively select their billing method. Specifically, a customer should have the right, upon request to Respondent or the SVT Supplier, to receive its bill for utility charges directly from the utility.

Respondent explained that it is important that the choice of billing method -- dual billing, the LDC Billing Option or Rider SBO billing -- be the customer's, not the SVT Supplier's, choice.[1] Choices For You[sm] is, as the name signifies, a program designed to give customers alternatives to the utility as a supplier of natural gas. Notwithstanding its position that supplier single billing is inappropriate for myriad policy reasons, Respondent, in this Brief, questions only the propriety of limiting a customer's ability to receive a bill for utility service from the utility if that is the customer's choice. Giving a customer choices about billing

[1] Respondent's proposed Rider SBO would not have compelled SVT Suppliers to offer all three billing options. However, if the SVT Supplier elected to offer a supplier single bill, it would have had to also offer the LDC Billing Option and dual billing as alternatives. Resp. Ex. C, pp. 27-28; Resp. Ex. F, pp. 11-14.

is certainly reasonable under a program that is about providing choice to customers.

Respondent has decided not to continue advocating its position that the customer must affirmatively choose its billing method from available alternatives. However, an appropriate middle ground is to allow customers the right to request, at any time while taking service under Rider SVT, that they receive their bills for utility services directly from the utility. Such a request could be honored by dual billing for the customer (*i.e.*, the SVT Supplier issues a bill for its services and Respondent issues a bill for its services) or a single bill from Respondent (*i.e.*, the LDC Billing Option under which Respondent issues a single bill that includes utility and supplier charges). The SVT Supplier would not be required to use the LDC Billing Option, but it could choose to do so to accommodate the customer's request for a bill from the utility.

This position is just and reasonable for two reasons. First, for the reasons asserted by Respondent in its testimony and briefs, it is farfetched to conclude that a decision to purchase gas from a given SVT Supplier is also a thoughtful and informed decision to receive a single bill from that SVT Supplier. Second, the current chaos surrounding Enron Corporation, and its retail marketing affiliates, has dramatically demonstrated the problems that can arise from supplier single billing, and these problems are borne by the customer and Respondent. On December 4 and 18, 2001, Staff briefed the Commission at pre-bench meetings on various issues concerning utility agreements with various Enron entities, including the retail marketers. Staff advised the Commission about potential problems associated with customers taking service from Enron.[2]

Customers should have an option, upon request, to receive bills for utility service from the utility. This choice by the customer could be met through dual billing or the LDC Billing Option. Either arrangement would allow the customer to pay the utility directly for utility service and protect its service from disconnection. This gives customers a critical tool in managing their gas service and addresses the very sorts of policy and legal concerns identified by Staff in this proceeding. If a corporation like Enron that held such a dominant place in the energy markets could so utterly collapse and leave its customers stranded, it is not unreasonable to afford all customers some additional protection in maintaining their utility service by taking direct responsibility for payment matters while simultaneously exercising a right to choose an alternative supplier.

C. Locking in the Payment Assurance at $2.00 Per Therm of Maximum Daily Quantity Is Inappropriate.

With respect to payment assurances, Respondent proposed a provision in Rider AGG, which states, in pertinent part, that "SVT Suppliers must provide adequate assurances of payment to the Company. Such assurances shall be an irrevocable standby letter of credit drawn on a bank acceptable to the Company, cash deposit or parental guarantee, based upon Company's determination of

[2] Staff theorized that problems could arise from the agency situation approximately a year before Enron proved the validity of the theory. In a November 2000 Staff report that Staff witness Eric P. Schlaf introduced into evidence in the instant proceeding, Staff recognized the potential for this very problem. In that report, Staff stated that "[a]t the heart of the customer/agent relationship is the agent's responsibility to pay utility bills on behalf of its customers in a timely manner. If bills are not paid on-time, the customer could very quickly have problems. One problem that could arise is that late fees will be charged to the customer's account, which the agent will pay if the agent hopes to keep customers in the dark about the agent's failure to pay bills as required. … Ultimately, a repeated failure to pay customer bills could result in the customer's service being disconnected." ICC Staff Ex. 3.0, Att. 1, p. 7.

qualifications. The amounts shall be determined annually, by November 1 each year, based on the customers served by the SVT Supplier." Resp. Ex. 1, Rider AGG, page 9 of 13. The purpose of this provision is to protect Respondent against non-payment by the SVT Supplier. Respondent showed that this provision allowed it to adjust the amount of the assurance as needed to reflect changing market conditions. Resp. Ex. C, p. 9; Resp. Ex. G, pp. 28-29; *also see* Resp. In. Br., pp. 57-58; Resp. Reply Br., pp. 35-36. Locking in the payment assurance at $2.00 per therm of Maximum Daily Quantity or any other figure inappropriately prevents the assurance from tracking the market conditions that drive Respondent's exposure to SVT Suppliers.

The ALJPO concluded that the lack of specificity about the calculation was troubling. It recommended adoption of "Staff's proposed calculation," which is $2.00 per therm of Maximum Daily Quantity for the SVT Supplier's pool. ALJPO, pp. 63-64. The ALJPO's conclusion should be rejected for three reasons. First, the reference to Staff's "calculation" is misleading. Staff did not perform any "calculation" in arriving at the $2.00 recommendation. It simply took the number proposed by Nicor Gas and approved by the Commission and stated that it should be approved for Respondent. Second, as Respondent explained, one element of its calculation is a function of projected gas prices. The considerable variability in gas prices in recent years is strong evidence of the inadequacy of selecting a single number as representative of Respondent's risk associated with SVT Supplier non-payment. For example, the April 17, 2001 NOI Manager's Report in Docket 01 NOI-1 showed wholesale gas prices for the period January

1998 through January 2001 ranging from $2.00 per Mcf to $10.00 per Mcf, with projections through January 2002 of between $4.00 - $5.00 per Mcf. Third, the ongoing problems with Enron Corporation and its retail marketers are instructive as to the non-payment risks that face Respondent. A single marketer with many customers that experiences financial problems represents a far greater uncollectible risk for Respondent than any one customer could ever pose. It is imperative that the determination of the payment assurance include sufficient flexibility to allow Respondent to take fluctuating market conditions into consideration. For these reasons, Respondent's proposed payment assurance language should be adopted.

D. A More Representative Number of Customers and Cost of Gas Should Be Used in Developing the Storage Inventory Carrying Cost Credit.

Respondent strongly opposed the proposed credit for alleged storage inventory carrying costs. First, Respondent showed that such an adjustment constituted impermissible single issue ratemaking. Second, Respondent showed that, if the Commission nonetheless requires such an adjustment, it should craft an adjustment that is consonant with the base rate nature of the adjustment. The cost of gas and carrying charge rate used in the adjustment should be derived from base rate costs. The ALJPO, instead, mixed base rate (rate of return) and current costs (current projection of gas costs) in the formula. ALJPO, pp. 55-58 , App. A. While Respondent believes the proposed adjustment is impermissible as a matter of law, it recognizes that the Commission recently rejected similar arguments in orders involving Nicor Gas' program and will not contest this issue in this Brief.

However, two fundamental flaws in the calculation should be corrected. First, more representative customer count data, from the 2002-2005 period rather than just the 2002 data, should be used in the calculation. Second, use of a current cost of gas in the calculation is patently at odds with the base rate nature of the adjustment, and this overstates the adjustment.

First, to ensure that the amount of the credit was accurately tailored to the customer receiving the credit, Respondent recommended that individual credits be computed for each participating customer. Resp. Ex. E, p. 7; Resp. Ex. H, p. 9. Staff agreed that this was appropriate. ICC Staff Ex. 7.0, pp. 6-7. While Respondent does not except to this conclusion, the ALJPO's recommendation raises for the first time the issue of the customer count data to be used in developing a composite number. If a single credit is applied in the form of an offset to the per account component of the Aggregation Charge, more complete data should be the basis for the calculation. The recommended credit is based upon the estimated number of participating customers in a single year, Respondent's fiscal 2002. The record includes more complete data for the period 2002-2005. Given that other elements of the proposal, such as enrollment limits and cost data, are based on data from this period, Respondent proposes that a multi-year average be used to develop the customer count data used in calculating the credit. The data supporting the proposed adjustment are included in ICC Staff Ex. 7.0, Schedule 1. Appendix A (both Respondent's preferred proposal and the alternative) of this Brief shows the resulting calculation using an average (2002-2005) number of customers.

Second, the cost of gas used in the proposed credit should be consistent with the base rate nature of the adjustment. The alleged savings at issue are tied to storage inventory carrying costs. It is undisputed that storage inventory carrying costs are costs recovered through Respondent's base rates. ICC Staff Ex. 7.0, p. 6; GCI Ex. 2.0, pp. 11, 12; R. 214, 215, 273. Respondent showed that the cost of storage inventory reflected in its base rates is 11.4¢ per therm. Resp. Ex. E, p. 6. These are the costs on which Respondent earns a return and these are the costs paid by customers. Mixing apples (the allowed rate of return from Respondent's 1995 rate case) with oranges (a market price of gas from 2001) simply cannot withstand scrutiny. Resp. Ex. H, pp. 5-6. Appendix A of this Brief shows the resulting calculation using an average (2002-2005) number of customers and a base rate cost of gas.

However, if the Commission nonetheless chooses to use a current market price of gas, it should not use the stale data in the record. The recommendation in the ALJPO is based on unnecessarily dated information, namely, New York Mercantile Exchange ("NYMEX") data posted on September 25, 2001. NYMEX data are publicly available from published sources, and a more current projection of gas costs should be used. Specifically, based on NYMEX data published in The Wall Street Journal on January 24, 2002, Respondent proposes a cost of gas of $0.24 per therm. (January 25, 2002 data produce the same result.) This is the simple average of futures prices for contracts for April 2002 through October 2002, which is the injection period under the Program. Appendix A (alternative) of this Brief shows the resulting calculation using an average (2002-2005) number of customers and a more current cost of gas.

E. The Standards of Conduct Improperly Impose a Quasi-Regulatory Function on Respondent.

Respondent opposed proposals to include a so-called "Standards of Conduct" provision in Rider AGG because it lacks the authority and the tools to enforce the Standards. Resp. Ex. C, pp. 32-33; Resp. Ex. F, p. 30; *also see* Resp. In. Br., pp. 55-57; Resp. Reply Br., p. 35. The ALJPO recommended inclusion of such Standards and noted that, given the Commission's lack of authority over gas marketers, it was appropriate for the Standards to be in the tariff. ALJPO, p. 62.

Unlike a regulator, Respondent cannot compel SVT Suppliers to cooperate in the production of information needed to ascertain if a violation has occurred and, unlike regulators, it has no protection against complaints that it improperly enforced the Standards. Contentions that enforcing the Standards would pose no greater burden than enforcing other tariff provisions ignores the critical distinction between the Standards and other tariff provisions, *viz.*, Respondent can assess compliance with its other tariff provisions through information available to Respondent in its capacity as the utility implementing its tariff. The Standards, in stark contrast, are principally designed to micro-manage SVT Supplier marketing. Respondent will leave to others to argue whether such controls are needed, but Respondent is very reluctant to assume a regulatory responsibility that it lacks the proper tools to perform. The Standards should be eliminated.

Alternatively, if the Commission believes, as the Citizens Utility Board stated, that it is better than nothing (CUB Ex. 1.0, p. 3), Respondent urges the Commission to make the Standards effective only until such time as the General Assembly confers authority on the Commission to regulate gas marketers like the SVT Suppliers. Respondent believes it is likely that the Commission will soon have such authority. The General Assembly, by a wide margin, passed legislation that would grant the necessary authority and the legislation is awaiting the governor's signature. The Commission can then assume the responsibilities, with the necessary statutory authority, to monitor SVT Suppliers' market conduct.

WHEREFORE, North Shore Gas Company respectfully submits its Brief on Exceptions in this proceeding and requests that the ALJPO be revised as shown in this Brief on Exceptions, including Appendix A.

Respectfully submitted,

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STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

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APPENDIX A
TO BRIEF ON EXCEPTIONS OF
NORTH SHORE GAS COMPANY

1. For the reasons set forth in Section III.B of the Brief, the sixth paragraph of Section IIII.C.8 of the ALJPO (page 25) should be revised as follows:

Turning to the Company's proposed Rider SBO, which includes the changes that the Company agreed to in its surrebuttal testimony, the first issue to be addressed is whether SVT Suppliers should be required to offer the customer a choice of billing options, including the opportunity to take single billing services directly from the Company. The Commission agrees with Staff and New Power that this requirement should be deleted from Rider SBO. ~~This~~ A requirement ~~is~~ to offer the LDC Billing Option as a precondition to offering supplier single billing ~~anti-competitive and~~ would unduly restrict the marketing efforts of SVT Suppliers. The choice of billing options can be conveyed through the customer education efforts associated with implementation of the program. However, the customer should always retain the option of arranging for the utility to bill the customer directly for utility charges, either when it first signs up for service with the SVT Supplier or at some later date if the customer decides that it would prefer to be directly billed, for utility charges, from Respondent. This affords the customer greater protection in protecting its service from disconnection.

2. A. For the reasons set forth in Section III.A of the Brief, the second and third paragraphs of Section IV.B.8 of the ALJPO (pages 38-39) should be revised as follows:

As discussed in the previous section of this Order, the Commission is concerned with the flexibility available to SVT Suppliers in meeting the Company's RDDQ. The primary basis for North Shore's proposed tolerances ~~appears to be~~is the tolerances provided to the Company by Natural. The Commission cannot agree with Staff that the Natural tolerances are irrelevant to this issue as they obviously play a role in the Company's ability to balance its system and are the source of support for the tolerances that the Company can make available under the Program. ~~The Commission rejects the Company's argument that its proposed daily tolerance of 3% and monthly tolerance of 1% are generous since Natural provides a daily tolerance of 5% and a monthly tolerance of 2% to the Company. The Company's argument fails to consider other resources at its disposal, such as no-notice balancing available from Natural.~~ The Commission likewise cannot agree with Staff and GCI that other resources can serve as a basis for additional tolerance. Those resources will be used to provide storage services to the SVT Suppliers and to support daily balancing that Respondent performs for the SVT Suppliers' benefit.

Having reviewed the entire record, the Commission concludes that it is appropriate to require North Shore to adopt the monthly tolerance (2%) proposed by Staff ~~as well as~~but Staff's proposed daily tolerance is not supported by the gas supply resources available to the Company and to be paid for by the SVT Suppliers. The Commission agrees that the Company's rationale for offering a portion -- more than half -- of the daily tolerance available from Natural is a reasonable allocation of that resource to the Program. Accordingly, the Commission concludes that the daily delivery tolerance should be 3% and the tolerance should ~~to~~ be applied to the RDDQ. While the Commission did not accept the recommendation of either Staff or GCI in the previous section of this order relating to SVT Supplier use of storage, the Commission finds that the tolerances adopted herein will provide sufficient flexibility to SVT Suppliers and still allow North Shore to balance its system. ~~The Commission also notes that the tolerances adopted herein are consistent with those recently adopted for Nicor Gas in the Customer Select proceeding. The Commission is unconvinced that the two systems are so dissimilar that it is necessary to adopt widely divergent tolerances.~~

B. For the reasons set forth in Section III.A of the Brief, Appendix B of the ALJPO should be revised as follows: In the column entitled "Tolerance," the references to "10%" should be changed to "3%."

2.A **Alternative:** As discussed in the previous section of this Order, the Commission is concerned with the flexibility available to SVT Suppliers in meeting the Company's RDDQ. The primary basis for North Shore's proposed tolerances ~~appears to be~~is the tolerances provided to the Company by Natural. The Commission cannot agree with Staff that the Natural tolerances are irrelevant to this issue as they obviously play a role in the Company's ability to balance its system. However, ~~T~~the Commission rejects the Company's argument that its proposed daily tolerance of 3% and monthly tolerance of 1% are generous since Natural provides a daily tolerance of 5% and a monthly tolerance of 2% to the Company. ~~The Company's argument fails to consider other resources at its disposal, such as no-notice balancing available from Natural.~~

Having reviewed the entire record, the Commission concludes that it is appropriate to require North Shore to adopt the monthly tolerance (2%) proposed by Staff ~~as well as~~but Staff's proposed daily tolerance to be applied to the RDDQ is not supported by the gas supply resources available to the Company and to be paid for by the SVT Suppliers. The Commission concludes that it is reasonable to provide the full amount of the tolerance available from Natural (5%, applied to the RDDQ) as a means of ensuring that SVT Suppliers receive the flexibility that they pay for through the charges assessed under the Program. While the Commission did not accept the recommendation of either Staff or GCI in the previous section of this order relating to SVT Supplier use of storage, the Commission finds that the tolerances adopted herein will provide sufficient flexibility to SVT Suppliers and still allow North Shore to balance its system. ~~The Commission also notes that the tolerances adopted herein are consistent with those recently adopted for Nicor Gas in the Customer Select proceeding. The Commission is unconvinced that the two systems are so dissimilar that it is necessary to adopt widely divergent tolerances.~~

2.B **Alternative:** For the reasons set forth in Section III.A of the Brief, Appendix B of the ALJPO should be revised as follows: In the column entitled "Tolerance," the references to "10%" should be changed to "5%."

3. A. For the reasons set forth in Section III.D of the Brief, the eighth paragraph of Section IV.D.7 of the ALJPO (page 57) should be revised as follows:

For the price per therm of gas utilized in the calculation, the Company proposes 11.4 cents per therm, which the Company asserts is the cost of gas included in its base rates. GCI and Staff, on the other hand, propose the use of a current forecast of market price. Staff proposes 31 cents per therm, which is the seven-month average of the NYMEX Futures Contract Prices as of August 28, 2001 for contracts terminating between April 1, 2002 and October 30, 2002.

Staff notes that the seven month timeframe coincides with the injection period specified in Rider AGG. GCI proposes 28.7 cents per therm, which is the average of NYMEX prices for the months of April 2002 through October 2002, as posted on September 25, 2001. The Commission agrees that the correct cost of gas to be used in computing the adjustment is the cost of inventory included in the Company's base rates. The Company showed that this cost is 11.4 cents per therm ~~determines that a current forecast of market price should be utilized in the calculation of savings since the savings should reflect the incremental carrying costs actually avoided by the Company. As noted by GCI, the Company cannot buy gas at a delivered cost of 11.4 cents per therm. The Commission concludes that GCI's proposed price of 28.7 cents per therm should be utilized since it is based on a more current forecast than Staff's proposed price~~.

4. B. For the reasons set forth in Section III.D of the Brief, the penultimate paragraph of Section IV.D.7 of the ALJPO (page 58) should be revised as follows:

The Commission concludes that the savings in gas storage inventory carrying costs attributable to the Program in the amount of $0.21~~52~~ per customer per month should be passed on to participating suppliers in the Program through a reduction in the per customer component of the Aggregation Charge. The calculation of the savings is shown in Appendix A to this Order. The reflection of the savings reduces the monthly per customer component of the cost-justified Aggregation Charge of $1.25 proposed by the Company to $1.04~~0.73~~. Since the costs of the Program are being recovered through charges to participating suppliers, it is appropriate for savings associated with the Program to be credited against a charge to suppliers. The Commission agrees with GCI's position that reduction of the charge to suppliers will do more to promote competition than will a monthly credit to participating customers.

3.A **Alternative:** For the price per therm of gas utilized in the calculation, the Company proposes 11.4 cents per therm, which the Company asserts is the cost of gas included in its base rates. GCI and Staff, on the other hand, propose the use of a current forecast of market price. Staff proposes 31 cents per therm, which is the seven-month average of the NYMEX Futures Contract Prices as of August 28, 2001 for contracts terminating between April 1, 2002 and October 30, 2002. Staff notes that the seven month timeframe coincides with the injection period specified in Rider AGG. GCI proposes 28.7 cents per therm, which is the average of NYMEX prices for the months of April 2002 through October 2002, as posted on September 25, 2001. The Commission determines that a current forecast of market price should be utilized in the calculation of savings since the savings should reflect the incremental carrying costs actually avoided by the Company. As noted by GCI, the Company cannot buy gas at a delivered cost of

11.4 cents per therm. The Commission concludes that ~~GCI's proposed~~a price of 24.0~~28.7~~ cents per therm should be utilized since it is based on a more current forecast than Staff's and GCI's proposed price. This price is derived from the NYMEX prices for the months of April 2002 through October 2002 that were published in The Wall Street Journal on January 24, 2002.

3.B **Alternative**

The Commission concludes that the savings in gas storage inventory carrying costs attributable to the Program in the amount of $0.44~~52~~ per customer per month should be passed on to participating suppliers in the Program through a reduction in the per customer component of the Aggregation Charge. The calculation of the savings is shown in Appendix A to this Order. The reflection of the savings reduces the monthly per customer component of the cost-justified Aggregation Charge of $1.25 proposed by the Company to $0.81~~73~~. Since the costs of the Program are being recovered through charges to participating suppliers, it is appropriate for savings associated with the Program to be credited against a charge to suppliers. The Commission agrees with GCI's position that reduction of the charge to suppliers will do more to promote competition than will a monthly credit to participating customers.

4. For the reasons set forth in Section III.E of the Brief, Section IV.F.6 of the ALJPO (page 62) should be revised as follows:

The Commission concludes that the Standards of Conduct ~~approved by it for Nicor Gas' Customer Select Program~~ proposed by Staff and supported by CUB should not be adopted for the Company's Program ~~and included in Rider AGG~~. ~~Those Standards set forth reasonable requirements for suppliers to meet that afford necessary protection to customers participating in the Program.~~ As CUB agrees, it would be more appropriate for the Commission, not a utility, to perform a regulatory function with respect to SVT Suppliers. The fact that the Commission currently lacks such authority does not make it appropriate to impose this obligation on the Company. Accordingly, the Standards of Conduct are rejected and,

~~I~~if the Commission is given statutory authority to regulate alternative retail gas suppliers, it would adopt appropriate rules to govern their behavior at that time. ~~Lacking such authority at this time, the Commission concludes that it is appropriate to include the Standards of Conduct in the Company's tariffs. As noted by Staff, the Company enforces other tariffs that detail the responsibilities of parties taking service thereunder. The Commission expects that the Company will act prudently in determining whether violations of the Standards of Conduct, of which it becomes aware, warrant removal of a supplier from the Program.~~

Alternative: The Commission concludes that the Standards of Conduct approved by it for Nicor Gas' Customer Select Program should be adopted for the Company's Program and included in Rider AGG until such time as the Commission acquires jurisdiction over marketers such as the SVT Suppliers. Those Standards set forth reasonable requirements for suppliers to meet that afford necessary protection to customers participating in the Program.

If the Commission is given statutory authority to regulate alternative retail gas suppliers, it would adopt appropriate rules to govern their behavior. Lacking such authority at this time, the Commission concludes that it is appropriate to include the Standards of Conduct in the Company's tariffs, but only until the Commission acquires the necessary jurisdiction. The Commission agrees with CUB and the Company that the Commission, rather than the utility, is the more appropriate entity to be responsible for regulating and monitoring the behavior of retail marketers. ~~As noted by Staff, the Company enforces other tariffs that detail the responsibilities of parties taking service thereunder.~~ The Commission expects that the Company will act prudently in determining whether violations of the Standards of Conduct, of which it becomes aware, warrant removal of a supplier from the Program.

5. For the reasons set forth in Section III.C of the Brief, Section IV.G of the ALJPO (pages 63-64) should be revised as follows:

Under the Company's proposal, the Company has broad discretion to determine the level of performance assurance from each SVT Supplier. ~~There are no guidelines in the Company's tariff language that explain how the level of performance assurance is determined. The Commission is troubled by this lack of specificity, and concludes that the Company's proposal should be rejected.~~ The Commission agrees with the Company that the proper level of the performance assurance is dependent, in part, on the level of projected gas costs at the time the determination of the assurance is made. Accordingly, some discretion is needed because experience has shown that gas prices fluctuate significantly from year to year.

The Commission concludes that Staff's proposal~~ed calculation~~, which multiplies $2.00 by the maximum daily quantity, in therms, of the pool of customers served by the SVT Supplier, ~~provides the necessary certainty regarding the level of required performance assurance and will provide adequate protection to the Company against supplier default~~ is inappropriate because it locks in a number with no consideration given to changing market conditions that would affect the reasonableness of that number. Accordingly, the Commission approves ~~Staff's~~ the Company's proposal.

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission On Its Own Motion v. North Shore Gas Company Proposal to implement Riders SVT and AGG, and revise Rider 2, Terms and Conditions, and Table of Contents	)))))))))))	Docket No. 01-0469

NOTICE OF FILING AND CERTIFICATE OF SERVICE

To: Service List

PLEASE TAKE NOTICE that on this 28th day of January, 2002, I have filed with the Chief Clerk of the Illinois Commerce Commission, the Brief on Exceptions of North Shore Gas Company, a copy of which is hereby served upon you by e-mail and United States Mail on January 28, 2002.

By: /S/ MARY KLYASHEFF
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